SINGLE BENCH (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, (C.G.)

W.P. No. 4419 **/2005**

PETITIONER:

Kanak Lata Wesley
W/o Shri G. Bhaskar Wesley
Aged about 61 years R/o B-3, B-Block, Vikram Apartment, Rajendra Nagar Katora Talab, Raipur District Raipur at present working as Deputy Commissioner Department of Scheduled Caste and Scheduled Tribe, Raipur (Chhattisgarh)

P.R. No. 4617/05
Presented by Shri ...
dated 8.7.05

VERSUS

RESPONDENTS:

1. State of Chhattisgarh
Through the Principal Secretary, Department of Scheduled Caste & Scheduled Tribe Development, Mantralaya, D.K.S. Bhawan, Raipur (Chhattisgarh)

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2. Commissioner
Tribal Welfare Department,
Raipur (Chhattisgarh)

3. State of Madhya Pradesh,
Through Secretary Scheduled Tribe and Scheduled Caste Welfare Department Vallabh Bhawan, Bhopal, (Madhya Pradesh)

4. Director,
Tribal Welfare,
Bhopal (Madhya Pradesh)

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS OF MANDAMUS AND CERTIORARI AND FOR OTHER SUITABLE WRITS AND DIRECTIONS: -

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.4419/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	16.09.2005 Mr. Jitendra Pali, learned counsel for the petitioner. Mr. Vivek Sharma, learned Panel Lawyer for the State of Chhattisgarh / respondents 1 & 2. Heard. Learned counsel for the petitioner submits that the petitioner was appointed in the year 1966 and thereafter she was promoted to the post of Project Officer, Administrator, Gariyaband in the department of SC/ST Welfare Development and she assumed the office on 01.09.1992. The petitioner was issued charge sheet on 15.06.1994 (Annexure P-1) containing 18 charges of serious irregularities in the construction of various projects by not taking approval of the Collector and causing loss to the Government. Additional charge sheet dated 30.06.1994 containing six more charges, was issued. According to the petitioner, she was issued show cause notice on 27.11.1995 as to why Departmental Enquiry be not initiated against the petitioner. The petitioner filed her reply on 15.01.1996. According to the petitioner, an Enquiry Officer was appointed on 20.09.1996 and the enquiry began on 03.07.1999 (Annexure P-5). The enquiry was concluded and enquiry report was submitted on 28.05.2002. No action was taken by the respondents on the basis of enquiry reports against the petitioner, so far. The petitioner apprehends that action including the termination from service, may be taken. Learned counsel for the petitioner submits that the petitioner is going to retire on 30.06.2006 and the respondents may take action against her on the basis of wrong enquiry report. According to the petitioner an enquiry was not conducted in accordance with Rule 14 (23) (i) of the C.G. (Classification, Control and Appeal) Rule, 1966.	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(91)

मामला क्रमांक W.P. No. 4419/ **सन् 200** 5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The respondents have not passed any order on the basis of the enquiry report which is impugned, till date and the present petition is premature on the ground that the enquiry report could not be a subject of challenge unless some action is taken against the petitioner. May be the respondents have already examined the enquiry report and they do not propose to take action against the petitioner as such no cause of action has arisen to invoke extraordinary jurisdiction of this Court under article 226 of the Constitution of India.

Learned counsel for the petitioner relies on the judgment of the Supreme Court in the matter of **P.V. Mahadevan vs. M.D. T.N. Housing Board** reported in **(2005) 6 Supreme Court Cases 636** wherein the Supreme Court after having considered long delay of 10 years in the conclusion of the enquiry, quashed the charge memo issued against the appellant. In the present case, enquiry had already been completed and enquiry report can not be quashed when no action has been taken on the basis of the enquiry report.

Learned counsel for the respondents submits that the petition is premature as no cause of action has arisen on the basis of enquiry report which is, according to the petitioner, not in accordance with law.

For the reasons stated above, the petition is dismissed. No order as to costs.

All miscellaneous applications, thus, stand disposed of.

Sd/-
Satish K. Agnihotri
Judge

Suguna

27/9/05